

DETAILED ACTION

Status of Claims

1. This action is responsive to application filed on November 3, 2003. Claims 1-29,31,32 are pending examination.

Claim Rejections - 35 USC § 101

2. Claims 16-20 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 161, for example, recites a "health indicator". Applicants specification mentions that the invention can be implemented as software only. Therefore, the scope of the "health indicator" encompasses a software only embodiment. Software is not statutory because it is simply abstract ideas and is not directed to a process occurring as a result of executing the software on an actual physical device. For a claim like this to be statutory, an actual hardware device is required. These claims do meet this criterion and are therefore deemed non-statutory. **See MPEP Chapter 2106.01 Section I**

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-7,16-20 rejected under 35 U.S.C. 102(e) as being anticipated by Greuel et al (US Patent No 7003564).

5. In reference to claim 1, Greuel teaches a method for collecting management information on a communication network, the method comprising the steps of:

obtaining a network technology independent high-level health indicator from a managed network element (column 3 lines 40-45 and column 4 lines 28-34 & 38-40);

and if details of the high-level health indicator are required, obtaining at least one of a technology independent intermediate-level health indicator and a technology independent raw health indicator related to the technology independent high-level health indicator from the managed network element (column 4 lines 56-57 and column 4 line 62 – column 5 line 7, discloses component score).

6. In reference to claim 2, Greuel teaches the method of claim 1, wherein the technology independent high-level health indicator provides an indication of the health of the managed network element (column 4 lines 38-40), and wherein the at least one of the technology independent intermediate-level health indicator and technology independent raw health indicator provide information about the health of an aspect of the managed network element (column 5 lines 2-7 and column 6 lines 53-59).

7. In reference to claim 3, Greuel teaches the method of claim 1, wherein a value of the technology independent high-level health indicator is determined from a plurality of raw health indicators (column 4 lines 49-57 and column 8 lines 3-7).

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8. In reference to claim 4, Greuel teaches the method of claim 3, wherein the value of the technology independent high-level health indicator is further determined from values of a plurality of intermediate-level health indicators (column 4 lines 49-57 and column 8 lines 3-7).

9. In reference to claim 5, Greuel teaches the method of claim 3, wherein the raw health indicators are defined independent of available measurements on the managed network elements, but are computed from measurements on the managed network elements (column 4 lines 49-57 and column 8 lines 3-7).

10. In reference to claim 6, Greuel teaches the method of claim 5, wherein the raw health indicators are computed from at least one of computed measurements and raw measurements made by the managed network element, the computed measurements and raw measurements being selected to compute the raw health indicator(column 4 lines 47-54).

11. In reference to claim 7, Greuel teaches the method of claim 1, wherein at least one of the technology independent intermediate-level and raw health indicators are maintained by the managed network element and provided on demand to a management station (column 3 lines 40-45 & 62-67).

12. In reference to claims 16-20, these are minor variations that correspond to the method claims of claims 1-7. Therefore, claims 16-20 are rejected based upon the same rationale as given for claims 1-7 above.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 8-15 rejected under 35 U.S.C. 103(a) as being unpatentable over Greuel et al (US Patent No 7003564) in view of Lim (US Patent Publication No 2002/0002616).

15. In reference to claim 8, Greuel teaches a network element, comprising: a processor containing control logic configured to maintain a management information base containing raw measurement information, and configured to implement health definition software configured to compute technology independent raw health indicators from values in the management information base (column 3 lines 40-45 and column 4 lines 28-67).

Greuel fails to explicitly teach wherein the “information is relating to the state of the network element”. However, Lim discloses a server monitoring itself for the purpose of monitoring its own health/resource status and so it can measure its capability of performing the tasks/services that it provides (¶s 38-42). It would have been obvious for one of ordinary skill in the art to modify Greuel where the information is relating to the state of the network element as per the teachings of Lim for the purpose of monitoring its own health/resource status and so it can measure its capability of performing the tasks/services that it provides.

16. In reference to claims 9-15, these are minor variations of that correspond to the method claims of claims 1-7 above. Therefore, claims 9-15 are rejected based upon the same rationale as given for claims 1-7 above.

Conclusion

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17. The above rejections are based upon the broadest reasonable interpretation of the claims. Applicant is advised that the specified citations of the relied upon prior art, in the above rejections, are only representative of the teachings of the prior art, and that any other supportive sections within the entirety of the reference (including any figures, incorporation by references, claims and/or priority documents) is implied as being applied to teach the scope of the claims.

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached Form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMY M. OSMAN whose telephone number is (571)272-4008.

The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ramy M Osman/
Primary Examiner, Art Unit 2157
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